

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

ANGELA BROWN,)
)
Plaintiff,)
)
v.) 08CV3488
) Judge Robert M. Dow
MACY'S RETAIL HOLDINGS, INC.) Magistrate Judge Brown
)
Defendant.)

DEFENDANT'S MOTION TO COMPEL SETTLEMENT

Now comes Defendant, MACY'S EAST, INC., INCORRECLTY SUED AS MACY'S RETAIL HOLDINGS, INC., by and through its attorneys, BRYCEDOWNEY, LLC and hereby moves for an order compelling settlement and in support thereof, states as follows:

1. On June 18, 2008, Prose Plaintiff Angela Brown filed a two count Complaint at Law against Defendant, Macy's East, Inc. ("Macy's"), in the United States District Court for the Northern District of Illinois, Eastern Division.
2. On or about July 28, 2008, Macy's extended an offer of settlement to Plaintiff in the amount of Seven-Thousand-One-Hundred-Seventy Two Dollars (\$7,172.00).
3. Plaintiff, Angela Brown, accepted Macy's offer of settlement on August 12, 2008.
4. Pursuant to the settlement agreement, Plaintiff requested that her medical providers (Dr. Darold Tucker, Dr. Earl Thornton, and Northwestern Medical Faculty Foundation) be added as payees on the settlement draft as opposed to them receiving their own separate checks.
5. The amounts to be paid to Plaintiff and her medical providers pursuant to the settlement agreement were as follows:

Angela Brown:	\$2,000.00
Dr. Darold Tucker:	\$1,200.00
Dr. Earl Thornton:	\$2,826.00
Northwestern Medical Faculty Foundation (NMFF):	<u>\$1,146.00</u>

Total: **\$7,172.00**

6. Dr. Tucker and Dr. Thornton have each asserted a physician's lien in this case in the amount of \$1,200.00 and \$2,826.00 respectively, copies of which are attached and marked as Exhibit "A" and "B" respectively. To this Defendant's knowledge, no lien has been asserted by Northwestern Medical Faculty Foundation.

7. Plaintiff agreed to obtain executed release of liens from her physicians, Dr. Tucker and Dr. Thornton.

8. Defendant sent a letter to Plaintiff on August 15, 2008 (Exhibit "C") memorializing the settlement agreement with settlement documents enclosed. With this letter, Defendant also enclosed W-9 forms to be executed by Dr. Thornton, Dr. Tucker, and Northwestern Medical Faculty Foundation.

9. On August 20, 2008, Plaintiff appeared at the law offices of BryceDowney, LLC, unannounced.

10. At that time, Plaintiff showed counsel for Defendant a release of physician's lien purported to be signed by Dr. Tucker and Dr. Thornton.

11. Plaintiff also informed counsel that she was unwilling to settle the case if she was required to obtain signed W-9 forms from her medical providers. She stated that her medical providers have refused to sign the W-9 forms. Plaintiff further requested that Macy's waive this requirement or else she would not settle the case. As Macy's has a tax reporting responsibility mandated by the IRS to obtain W-9 forms for payments of \$600 or more, Macy's is not in a position to comply with Plaintiff's demands.

12. Today, on August 21, 2008, an office manager from Dr. Tucker's office contacted counsel for Defendant. The office manager stated that Plaintiff came to Dr. Tucker's office on August 19, 2008 requesting that he sign the executed release. The office manager further went on to say that Dr. Tucker **did not** sign a release of lien and that any purported signing of the same was fraudulent.

13. Defendant requests that this Court intervene on an emergency basis and enter an order to compel settlement of this matter as it appears that settlement has now been severely compromised by the actions of Plaintiff.

14. Defendant specifically requests that it be permitted to contact Plaintiff's medical providers directly to obtain executed W-9 forms and release of liens.

15. Furthermore, to ensure that payment is made to Plaintiff's medical providers, Defendant requests that it be permitted to issue three separate checks directly to Dr. Tucker in the amount of \$1,200.00; Dr. Thornton in the amount of \$2,826.00; and Northwestern Medical Faculty Foundation in the amount of \$1,146.00.

16. Upon receipt of Plaintiff's executed release, Defendant will issue a check to Plaintiff for the remaining balance of \$2,000.

17. This matter is currently set for initial status conference before Judge Robert Dow on September 2, 2008 at 9:00 a.m. Defendant requests that the status be continued to a later date until these issues are resolved by the Court.

WHEREFORE, Defendant, MACY'S EAST, INC., respectfully requests that this Court compel settlement as set forth above and for all other just and appropriate relief in the premises.

MACY'S EAST, INC., INCORRECTLY
SUED AS MACY'S RETAIL HOLDINGS,
INC.

BY: /s/ Carolyn E. Kang
One of Its Attorneys

Richard W. Lenkov, Esq.
Carolyn E. Kang, Esq.
BryceDowney, LLC
200 North LaSalle Street
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(312) 377-1502 Fax
Firm I.D. 41189
rlenkov@brycedowney.com
ckang@brycedowney.com

CERTIFICATE OF SERVICE

I hereby certify that on August 21, 2008, I electronically filed the foregoing MOTION TO COMPEL SETTLEMENT with the clerk of the court using the CM/ECF System and by depositing the same for delivery, at 200 North LaSalle Street, Chicago, IL 60601 by 5:00 p.m., to the following Pro Se individual: Angela Brown, P.O. Box 1071, Park Forest, Illinois 60466.

MACY'S EAST, INC., INCORRECLTY
SUED AS MACY'S RETAIL HOLDINGS,
INC.

BY: /s/ Carolyn E. Kang
One of Its Attorneys

Richard W. Lenkov, Esq.
Carolyn E. Kang, Esq.
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200 North LaSalle Street
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Dr. Darold Tucker DDS

8210 S. King Drive
Chicago, IL 60619
773/723-7600

PHYSICIAN'S LIEN

Patient: *Angela Brown* 10/20/1966

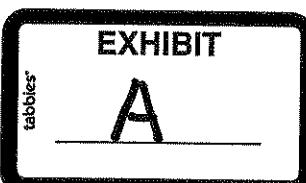
YOU ARE HEREBY FURTHER NOTIFIED that the undersigned claims a lien, as provided under the laws of the State Of Illinois relating to Physician's Liens, upon all claims and causes of said injured persons for his reasonable charges for services rendered up to the date of such damages.

This lien shall attach to any verdict, judgment, or decree secured in any suit of action by the injured person based on the negligent or wrongful act, and to any money or property, whether by compromise, settlement, or any suit or action brought by such injured person on account of such suit or action, or any verdict, judgment or decree in any suit or action brought by the estate of the injured person against any other party for recovery of damages on account of injuries not resulting in the death of the injured person.

In the event that there is insurance coverage, it is suggested for your protection, that this Notice Of Physician's Lien be forwarded promptly, to the insurance carrier.

Darold Tucker DDS

Attachments: Medical/Dental Report
Patient Narrative
Medical/Dental Bill



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Dr. Earl B. Thornton & Associates, P.C.

Dr. Earl B. Thornton, D.O.
Physician & Surgeon
Family Medicine & Physical Medicine

Phone 773-651-3747
Fax 773-651-3748

8222 Dr. Martin Luther King Drive, Suite A
Chicago, Illinois 60649

PHYSICIAN'S LIEN

Patient Name: **Angela Edwards-Brown**

YOU ARE HEREBY FURTHER NOTIFIED that the undersigned claims a lien, as provided under the laws of the State Of Illinois relating to Physician's Liens, upon all claims and causes of said injured persons for his reasonable charges for services rendered up to the date of such damages.

This lien shall attach to any verdict, judgment, or decree secured in any suit or action by the injured person based on the negligent or wrongful act, and to any money or property, whether by compromise, settlement, or any suit or action brought by such injured person on account of such suit or action, or any verdict, judgment or decree in any suit or action brought by the estate of the injured person against any other party for recovery of damages on account of injuries not resulting in the death of the injured person.

In the event that there is insurance coverage, it is suggested for your protection, that this Notice Of Physician's Lien be forwarded promptly, to the insurance carrier.

Dr. Earl B. Thornton
Dr. Earl B. Thornton & Associates, P.C.

Attachments: Medical Report
 Patient Narrative
 SOAP Notes
 Medical Bill

EXHIBIT

tabbed*

B

BRYCEDOWNEY, LLC

200 NORTH LASALLE STREET | SUITE 2700 | CHICAGO, ILLINOIS 60601 | TEL 312.377.1501 | FAX 312.377.1502 | WWW.BRYCEDOWNEY.COM

ATTORNEYS

CHICAGO | OAK BROOK | MEMPHIS | ATLANTA

CAROLYN E. KANG
312.327.0038
ckang@brycedowney.com

August 15, 2008

VIA U.S. MAIL

Angela Brown
P.O. Box 1071
Park Forest, Illinois 60466

**Re: Angela Brown v. Macy's
Court No.: 08CV3488
Our File No.: 008148.0012**

Dear Ms. Brown:

This correspondence will confirm that you have agreed to settle the above-referenced case for Seven Thousand One Hundred and Seventy Two Dollars (\$7,172.00).

As you requested, Macy's will include your name on the settlement draft along with the following individuals/entities: Dr. Darold Tucker, Dr. Earl Thornton, and Northwestern Medical Faculty Foundation (NMFF). As agreed, the amounts to be paid to these individuals/entities are as follows:

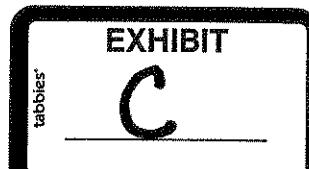
Angela Brown:	\$2,000.00
Dr. Darold Tucker:	\$1,200.00
Dr. Earl Thornton:	\$2,826.00
Northwestern Medical Faculty Foundation (NMFF):	<u>\$1,146.00</u>

Total: \$7172.00

I have enclosed various forms and documents that need to be executed by 1) yourself, 2) Dr. Tucker, 3) Dr. Thornton, and 4) Northwestern Medical Faculty Foundation before my client is able to issue the settlement draft to you.

Per our telephone discussion on August 8, 2008, you agreed to obtain signed Releases of Physician's Liens from Dr. Darold Tucker and Dr. Earl Thornton. We have enclosed the Releases with this correspondence.

My client has recently informed me that it will require W-9 forms from all payees on the settlement draft since a tax reporting responsibility is imposed by the government for any payments made of \$600 or more. I have enclosed four (4) W-9 forms to be dated and signed by yourself, Dr. Tucker, Dr. Thornton, and Northwestern Medical Faculty Foundation (NMFF).



Angela Brown
August 15, 2008
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To summarize, you will need to arrange for the following items in order to effectuate settlement of this matter:

1) Yourself - Angela Brown:

- Sign and date the enclosed Release with a witness signature;
- Sign and date the enclosed W-9 form.

2) Dr. Darold Tucker:

- Dr. Tucker (or an authorized representative) will need to date, sign, and have notarized the enclosed Release of Physician's lien; and
- Dr. Tucker (or an authorized representative) will need to date and sign the enclosed W-9 form.

3) Dr. Earl Thornton:

- Dr. Thornton (or an authorized representative) will need to date, sign, and have notarized the enclosed Release of Physician's lien; and
- Dr. Thornton (or an authorized representative) will need to date and sign the enclosed W-9 form.

4) Northwestern Medical Faculty Foundation (NMFF):

- An authorized representative of Northwestern Medical Faculty Foundation (NMFF) will need to date and sign the enclosed W-9 form.

I have enclosed for your convenience a pre-paid federal express envelope for use in sending the above executed documents to Bryce Downey, LLC, to my attention, in order to expedite the process.

Finally, as we discussed, I will be filing a Motion with the Court for a status conference on settlement and entry of a dismissal order. I will request that the status conference be held on **Tuesday, August 26, 2008 at 9:15 p.m.** Please let me know before Wednesday August 20 if you have a conflict with the proposed date and time. The purpose of the conference is to inform the Judge that a settlement has been reached, to enter a dismissal order, and to address any outstanding issues (if any) that may be pending at that time.

Should you have any questions or if any of the above does not comport with your understanding of our agreement, please feel free to give me a call. We are pleased to see that this matter came to an amicable settlement. It was a pleasure working with you.

Very truly yours,



Carolyn E. Kang

CEK:vmg
Enclosures